

HABITAT COMMITTEE REPORT ON  
AMENDMENT 28 – ESSENTIAL FISH HABITAT AND ROCKFISH CONSERVATION  
AREA – FINAL IMPLEMENTATION

**Revised Council Operating Procedure**

The Habitat Committee (HC) appreciates the utility of creating a general Council Operating Procedure (COP) that can be referred to in future essential fish habitat (EFH) reviews under all fishery management plans (FMPs). However, the HC recommends that the COP be amended at a future Council meeting. Tabling this topic will provide more opportunity for the Council to finalize Amendment 28, which is time-sensitive, and will allow for incorporation of lessons learned from Amendment 28. In addition, it will provide further opportunities for the Council and its advisory bodies to focus on developing a more detailed process for reviewing and revising EFH. As Council members, staff, and advisors rotate out of the Council family, their experiential knowledge of the EFH review process will become unavailable if not documented at this time.

Given the fact that many of the proposed changes to the FMP reference the COP, tabling the COP does present a challenge. The HC's suggested revisions to the FMP amendatory language below attempt to address this challenge by stating clearly in the FMP that revisions can take place through an interim process outside of the five-year EFH review process.

***Proposed Changes to G.2. Attachment 1: Proposed FMP Amendment Language and G.2.a: Project Team Report 1***

The HC suggests the following edits to the groundfish FMP. Additions are underlined and deletions are ~~struck through~~. Unless otherwise noted, the edits apply only to G.2. Attachment 1.

***In Section 6.2.4 (G.2\_Att.1 and G.2.a\_Project Team Report 1)***

This section refers to the suite of gear restrictions used to protect EFH from fishing. It references Sections 6.8 and 7.4 in which all gear restrictions are discussed. Therefore, wherever the text is “bottom trawl” it should be replaced with “bottom-contact gear.”

***In Section 6.2.4 Habitat Conservation Framework***

The HC has several recommendations for improving the Habitat Conservation Framework (Section 6.2.4). Specifically, the Framework calls for the Council to establish a set of objectives for the EFH review and revision process. The HC recommends that the habitat objectives from Amendment 19 (NMFS 2006), with minor revisions, would fit within the scope of the Habitat Conservation Framework and provide constructive guidance to the Council. The HC also recommends including the “priority habitats” used in developing the Alternatives for Amendment 28 that were first described in Amendment 19 as “complex and sensitive” habitats.

The HC's proposed revisions to the Habitat Conservation Framework are shown in the markup of FMP Section 6.2.4 attached to this report.

## **Section 7.3 HAPC**

Figure 7-2 in Section 7 is a map of HAPC. This map should be updated for Amendment 28.

### **Section 7.3.1.5 Designation of HAPC Areas of Interest**

“Rogue Canyon” is missing from the list of ‘Areas of Interest’ off Oregon in the draft FMP and should be added. It is identified as a habitat area of particular concern (HAPC) in the environmental impact statement for Amendment 19, but not in the current FMP.

### **Section 7.3.2 Process for Modifying Existing or Designating New HAPCs**

At the September Council meeting, the Council directed staff to capture the interim process in the COP 22 for designating HAPC given that the process was proposed for deletion from Section 7.3.2 of the groundfish FMP. The Team Report states that the interim process is identified in new COP 22, but this is not the case. As the COP is further revised, it should note the interim process.

Furthermore, the deletion of Section 7.3.2 removes language that explained the rationale for designating HAPCs in an interim process. That rationale emphasizes the importance and vulnerability of HAPCs and the need to retain a flexible, interim process for more timely designation, particularly with respect to new and increasing threats. For example, new interest in deepwater mineral explorations could impact methane seeps where recent expeditions have observed shark and squid using seeps as nursery habitat. Under Amendment 28, the Council has designated methane seeps as groundfish EFH, however in the interim period, the Council may determine that HAPC designation is more appropriate. The HC recommends retaining some elements of the interim process for HAPCs in section 7.3.2.

The HC recommends retaining the entire first sentence of Section 7.3.2, with the following modification:

**Section 7.3.2:** Recognizing that new scientific information could reveal other important habitat areas that should be designated HAPCs or call into question the criteria for existing HAPCs, or identify new threats that warrant designating additional HAPCs, the Council may designate a new HAPC or modify or eliminate an existing HAPCs through ~~the~~ an interim process.

### **G2\_Att2: FMP Appendices**

The modifications to several of the appendices were not available in the supplemental briefing book with sufficient time for review ahead of the HC’s meeting. The HC understands that Council review of draft appendices and/or incorporation of advisory body comments at a meeting subsequent to March would likely delay the Amendment 28 rulemaking. Therefore the HC recommends the Council allow additional time to review the appendices and provide individual comments to the authors which, subject to the discretion of the authors, can be included in the package transmitted to NMFS for Secretarial review.

PFMC

03/08/2019\*

## G.2. Amendment 28 – Attachment for Habitat Committee comments

Deleted text is strikethrough. New text is underlined. The Habitat Objectives were drawn from Amendment 19 and previous Habitat Committee comments.

### **Section 6.2.4 The Habitat Conservation Framework**

The primary mechanism for providing habitat protections in Council-managed fisheries is via the EFH provisions in the MSA and detailed at 50 CFR 600.805 – 600.930. The elements of EFH should be reviewed at least every five years and revised if warranted, based on new or newly-available information. Councils may establish closed areas to certain fishing gear or methods, to protect important habitats. In order to protect EFH from the adverse effects of fishing, the Council has identified areas that are closed to bottom ~~trawling~~ contact gear (see Sections 6.8 and 7.4). These areas are described in Federal regulations and may be modified through the full rulemaking process as described under Section 6.2D. At the outset of a periodic review, the Council will establish a set of objectives and a scope for the review and revision process, consistent with COP 22 and Federal regulatory guidance on EFH. The Council would initiate a review of information, including any new and newly-available information relevant to EFH, and identify appropriate Council and NMFS staff to coordinate the review. If warranted, the Council could consider modifying groundfish EFH elements currently in place, including the areas currently closed to fishing activities that may adversely affect EFH, and could consider EFH elements that were not included previously. In making its determination, the Council should consider, but is not limited to considering, the best available scientific information about:

1. The importance of habitat types to any groundfish FMU species for their spawning, breeding, feeding, or growth to maturity.
2. The presence and location and condition of important habitat (as defined immediately above).
3. The presence and location of habitat that is vulnerable to the effects of fishing.
4. The presence and location of unique, rare, or threatened habitat.
5. New or increasing threats to EFH from non-fishing related activities.
6. The socioeconomic and management-related effects of closures, including changes in the location and intensity of bottom fishing effort, the displacement or loss of revenue from fishing, and social and economic effects to fishing communities attributable to the location and extent of closed areas.

The Council should also consider the following habitat objectives:

- Protect a diversity of habitat types across latitude ranges biogeographic and depth zones and substrate types supporting all managed species and life stages.
- Develop conservation areas with a diversity of habitat types incorporating the ecological principles of connectivity, size, distribution, and relative abundance.
- Prioritize pristine or previously protected areas, or areas with low levels of fishing or non-fishing impacts.
- Protect habitats sensitive to fishing gear and habitats of high complexity across habitat types.

- Distribute socioeconomic costs that would result from implementation of EFH amendments. Conduct scientific research to further our understanding of the effects of fishing gear on EFH.

The Council should also consider the following priority habitats:

1. Hard substrate, including rocky ridges and rocky slopes
2. Habitat-forming invertebrates
3. Submarine canyons and gullies
4. Seamounts
5. Highest 20% habitat suitability for overfished groundfish species as defined by NOAA